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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/551,179 Confirmation No. :
First Named Inventor : Heinrich A. EBERL
Filed : September 29, 2005
PCT No. : PCT/EP02/04030
TC/A.U. :
Examiner :

Docket No. : 101795.56308US
Customer No. : 23911

Title : Method and System for Providing Information on the
Eye

**REQUEST FOR RECONSIDERATION AND RENEWED PETITION FOR
REVIVAL OF UNINTENTIONALLY ABANDONED APPLICATION
UNDER 37 C.F.R. § 1.137(b)**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

October 20, 2006

Sir:

On September 29, 2005, Applicant submitted a Petition for Revival of Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b). In that petition, the Applicants noted that several of the co-inventors of the invention disclosed in the above-identified application were employees of Physoptics Opto-Electronic GmbH ("Physoptics"), and that by virtue of the German Employee Inventor's Law, Physoptics took over their rights to the application, worldwide. The petition further noted that Physoptics later went into bankruptcy and that the trustee refused to cooperate in the initiation of the U.S. National Phase proceedings. Following litigation between the Applicants and the Trustee in Bankruptcy, an agreement was reached releasing all rights to the present application, as well as several other applications. Furthermore, the petition also noted that following agreement among the applicants to go forward with the

application in the United States, because the files were in a state of disarray, it was necessary for the Applicants to reconstruct the file prior to initiation of U.S. proceedings. Finally, the petition concluded with the statement that,

“the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional”.

The PCT application as well as the appropriate PCT filing fees were submitted with the petition, together with the petition fee of \$750 under 37 C.F.R. § 1.17(m).

In a Decision which was undated, but was received by Applicants' counsel on August 31, 2006, the foregoing petition was dismissed, without prejudice, for reasons articulated in the Decision itself. In particular, the Decision raised several questions concerning the facts surrounding the Applicants' delay in filing the appropriate papers in the United States, and found, therefore, that it was not clear that the (above) statement that the delay was unintentional had been made by the relevant party. In particular, the Decision refers to MPEP §711.01(c) which states that,

“when an applicant assigns the application to a third party (e.g., the inventor/applicant's employer), and the third party decides not to file a reply to avoid

abandonment, the applicant's actions, inactions or intentions are irrelevant under 37 C.F.R. § 1.137....”

The facts set forth hereinbelow are submitted in response to the questions raised in the Decision. In particular, Applicants respectfully submit, for the reasons set forth at length hereinafter, that neither the Applicants nor the Applicants' employers made a decision not to initiate national stage proceedings in the United States, and that they were in fact initially precluded from doing so by the interposition of the bankruptcy proceedings and the early refusal of the bankruptcy trustee to cooperate. Accordingly, Applicants respectfully submit that MPEP §711.03(c) is not applicable in this instance, and that in fact the delay in initiating national stage proceedings in the United States was unintentional on the part of all parties who were either inventors or assignees during the relevant period.

In support of the latter proposition, Applicants submit the following more detailed description of the facts surrounding this application.

1. Four inventors contributed to the subject matter (hereinafter “the invention”) described in the subject application. They are: Roland Eberl, Heinrich Eberl, Robert Bücher and David Dickerson.

2. A the time the invention was made, H. Eberl, Bücher and Dickerson were employees of Physoptics Opt-Electronic GmbH (hereinafter “Physoptics”). Because the invention was made in the course of their employment with Physoptics, the German Employee Invention Code (German:

“*Arbeitnehmererfindungsgesetz*”, thus hereinafter “ArbEG”) is applicable. In particular, the ArbEG provides that the invention is to be deemed an “employee invention” (the significance of which is discussed below) as regards the original rights of H. Eberl, Bücher and Dickerson.

3. At the time of the present invention, R. Eberl was the “*Geschäftsführer*” (General Manager / CEO) of Physoptics. According to the interpretation of the ArbEG by the German courts, it is not applicable to *Geschäftsführer*.

4. PCT Application No. PCT/EP02/04030 was original filed on April 10, 2002 in the name of Physoptics as applicant (in accordance with European practice).

5. Under the German courts’ interpretation of the ArbEG, the original filing of the application in the name of Physoptics for all countries except the US (where the naming of Physoptics as applicant is prohibited by statute) is considered as constituting a demand as set forth in §6, 1st paragraph of the ArbEG on the part of Physoptics for the full rights to the present invention originally held by Eberl, Bücher and Dickerson.

6. Section 6, 1st paragraph of the ArbEG provides that, *Der Arbeitgeber kann eine Diensterfindung unbeschränkt oder beschränkt in Anspruch nehmen.*” (English: “*The employer can demand the full or partial rights to an employee invention.*”) The effect of this demand is stipulated in §7, 1st paragraph: “*Mit Zugang der Erklärung der unbeschränkten Inanspruchnahme gehen alle Rechte*

an der Diensterfindung auf den Arbeitgeber über.” (English: “All rights to the employee invention pass to the employer upon delivery of a demand for the full rights.”) The extraterritorial consequences of §7, 1st paragraph are explicitly specified in §14, 1st paragraph of the ArbEG, as follows: “*Nach unbeschränkter Inanspruchnahme der Diensterfindung ist der Arbeitgeber berechtigt, diese auch im Ausland zur Erteilung Anzumelden.*” (English: “Subsequent to a demand for the full rights to the employee invention, the employer is entitled to file these for grant [of a patent] even abroad.”)

7. In Germany, and in countries of the European Patent Convention (EPC), the naming of Physoptics as applicant for all countries except the US means that Physoptics became the *de facto* owner of R. Eberl’s rights to the present invention in at least Germany and the territory of the EPC.

8. Mechanisms are provided in the German Patent Code (German: “*Patentgesetz*”) as well as the EPC for protecting the owners of patents. For example, §8, first sentence, of the German Patent Code stipulates that, “*Der Berechtigte, dessen Erfindung von einem Nichtberechtigten angemeldet ist, ... kann vom Patentsucher verlangen, daß ihm der Anspruch auf Erteilung des Patents abgetreten wird.*” (English: “The rightful [owner] whose invention has been filed by a non-rightful [owner] may demand from the person seeking a patent that the right to grant of a patent be assigned to him.”)

9. Similarly, Article 61(1) EPC stipulates:

“If by a final decision it is adjudged that a person referred to in Article 60, paragraph 1, other than the applicant, is entitled to the grant of a European patent, that person may, within a period of three months after the decision has become final, provided that the European patent has not yet been granted, in respect of those Contracting States designated in the European patent application in which the decision has been taken or recognised, or has to be recognised on the basis of the Protocol on Recognition annexed to this Convention:

- (a) prosecute the application as his own application in place of the applicant,*
- (b) file a new European patent application in respect of the same invention, or*
- (c) request that the application be refused.”*

10. Summarizing the above:

- i) With the filing of the original PCT application relating to the present invention, Physoptics became the *de jure* global owner of all rights to the present invention originally held by Eberl, Bücher and Dickerson.
- ii) With the filing of the original PCT application relating to the present invention, Physoptics became the *de facto*, albeit contestable, owner of Eberl's rights to the present invention in at least Germany and the territory of the EPC.

11. Physoptics declared bankruptcy in August 2002, and Dr. Martin Prager was appointed trustee of its assets.

12. As regards the abandonment of protective rights relating to an employee invention to which an employer has demanded the full rights, but for which the employer has yet to adequately compensate the inventor, §16, second paragraph of ArbEG provides, "*Der Arbeitgeber ist berechtigt, das Recht aufzugeben, sofern der Arbeitnehmer nicht innerhalb von drei Monaten nach Zugang der Mitteilung die Übertragung des Rechts verlangt.*" (English: "The employer is entitled to abandon the right as long as the employee does not demand assignment of the right within three months of delivery of a communication [stating that the employer wishes to abandon the right].")

13. The courts have consistently held that, under §16, second paragraph, of the ArbEG (above), an employer who has yet to adequately compensate the inventor is not entitled to abandon such protective rights without at least three months' advance notice to the employee.

14. In view of these stipulations of the ArbEG and the self-evident proposition that Physoptics (which was in bankruptcy) did not have the necessary assets to continue prosecution of Physoptics' numerous patent applications, Dickerson communicated with Dr. Prager several times between Physoptics' bankruptcy and May 2003 pointing out his legal obligation to prevent abandonment of Physoptics' patent applications.

15. On May 6, 2003, Dickerson filed a lawsuit against Dr. Prager as trustee of Physoptics seeking a court order that those patent applications within Physoptics' portfolio to which Dickerson and the other inventors had a legal right (e.g., by virtue of §16, second paragraph, of the ArbEG) be assigned to them.

16. As regards the sale of employee inventions, in the course of bankruptcy proceedings independent of the business, §27, second paragraph, first sentence, of the ArbEG provides that, "*Veräußert der Insolvenzverwalter die Dienstleistung ohne den Geschäftsbetrieb, so hat der Arbeitnehmer ein Vorkaufsrecht.*" (English: "*If the trustee of the bankruptcy [proceedings] sells the employee invention without the business, then the employee has a right of preemption.*")

17. In keeping with this stipulation of §27, second paragraph, first sentence, of the ArbEG, Dr. Prager wrote to H. Eberl and Bücher on September 9, 2003 requesting their consent to the sale of Physoptics' patents in which they were named as employee inventors.

18. Heinrich Eberl and Robert Bücher signed statements on September 11 and 18, 2003, respectively, permitting Dr. Prager to sell Physoptics' "patents" without restriction. (Attachments 1 and 2.)

19. On November 3, 2003, Dr. Prager and counsel for Dickerson concluded a preliminary settlement. (Attachment 3.) Pursuant to the terms of section 1 of that settlement, all rights held by Physoptics or Dickerson to patent

applications and/or patents for which Physoptics has been registered or acted as application or owner were to be sold to Dickerson in exchange for a fee.

20. In section 2 of the settlement, Dr. Prager confirmed that Physoptics' rights to its IP portfolio had not changed hands since Physoptics' filing for bankruptcy. In section 3 of the settlement, Dr. Prager confirmed that H. Eberl and Bücher had consented to a sale of their employee inventions.

21. As a result of the settlement, Dr. Prager transferred all rights to numerous patent applications, including the present application, from Physoptics to Dickerson on November 20, 2003. (Attachment 4.)

22. Summarizing the above:

i) by virtue of the statements of consent of H. Eberl and Bücher and Dr. Prager's aforementioned transfer of rights from Physoptics to Dickerson, on November 20, 2003, Dickerson became the *de jure* global owner of all rights to the present invention originally held by Eberl, Bücher and Dickerson, and

ii) Likewise, on November 20, 2003 Dickerson also became the *de facto* owner of R. Eberl's rights to the present invention in at least Germany and the territory of the EPC. This was subsequently ratified by Dickerson and R. Eberl on October 29, 2004, in a document which provided Dickerson with full and free disposal over several patent applications, including the present application, and patents issuing therefrom. Roland Eberl subsequently assigned the present application to Dickerson on June 13, 2005. (Attachment 5.)

23. As of the time when he obtained the rights to the invention and to the present application, two problems prevented Dickerson from going forward immediately with U.S. National Stage proceedings. First, the files for the PCT application had been lost during the Physoptics bankruptcy proceedings, requiring that they be reconstructed. Since there were several similarly situated applications (Attachment 4), this task was arduous and time consuming. In addition, since Dickerson lacked the necessary resources, it was necessary for him to obtain financing.

24. From the time when he finally acquired the rights in this application, Dickerson, who was otherwise fully employed and therefore could not devote his full time to the project, diligently worked toward the assembly of the necessary materials and resources to initiate U.S. National Stage proceedings. The filing was completed on September 29, 2005, with the submission of appropriate papers and fees to the U.S. Patent and Trademark Office, together with the necessary fees.

25. Because the original PCT Application was filed on April 10, 2002, under the applicable rules governing U.S. national stage proceedings, the U.S. application could have been filed as late as October 10, 2006. On the latter date, and at least since November of 2003, the *de jure* and *de facto* rights in this application have been owned by Dickerson. Despite the difficulties and confusion which have attended this matter and despite the necessity that he handle the matter *pro se* prior to filing the September 29, 2005 petition, it has at all relevant

times been the intention of Mr. Dickerson to file the present application in the United States, and he worked diligently toward that goal. Accordingly, Mr. Dickerson states, through his attorney, that at no time during the period prior to expiration of the 30 month date for filing in the U.S. or thereafter, was there any intent on his part or on the part of any of the Applicants to abandon this application. Moreover, Applicants also state that the entire delay in filing the required application papers until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.

26. None of the Applicants is a U.S. patent attorney or agent, and none of them is expert in U.S. patent procedures. There is no evidence that any of them ever determined to abandon this application. Rather, they were impeded and frustrated initially by the intransigence of a bankruptcy trustee who refused to cooperate, and subsequently were confronted with the arduous task of reconstructing the files for this and several other applications and then making arrangements for the U.S. filing in an extremely complex legal situation.

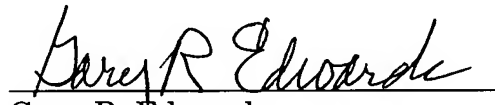
27. Under all the circumstances, including their own lack of expertise, Applicants submit that a delay from October 10, 2004, the last day for U.S. filing and September 29, 2005, when the petition was filed (a period of less than one year), is not unreasonable, and is not so long as to raise presumption of an intention to abandon this application. On the other hand, there is no evidence which suggests such an intention on the part of any of them. Rather, their

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Request Dated: October 20, 2006
PCT/EP02/04030
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actions strongly support the conclusion that at all relevant times it was their desire to go forward with this application.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Deposit Account No. 05-1323 (Attorney Docket No. 101795.56308US).

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Gary R. Edwards", is written over a horizontal line.

Gary R. Edwards

Registration No. 31,824

CROWELL & MORING LLP
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GRE:kms
Attachments 1, 2, 3, 4 and 5
2877921_1

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D-80339 München
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Tel. 0 89/85 89 63-3
Fax. 0 89/85 89 63-50

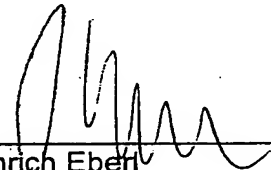
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www.pluta.net

**IN 226/02 Insolvenzverfahren über das Vermögen der Phyoptics Opto
Elektronik GmbH, Münchener Str. 15, 82319 Starnberg**

Erklärung

*I hereby state my agreement to the sale of the patents
involved in the above insolvency proceeding, in which
I am named as an employed inventor.*
Hiermit erteile ich mein Einverständnis zur Verwertung der Patente vorgenanntes
Insolvenzverfahren betreffend, bei denen ich als Arbeitnehmererfinder benannt bin.

Probstried, 2003-09-11
Ort, Datum


Heinrich Eber

Bayreuth Chemnitz Leipzig Milano München Münster Stuttgart Ulm

PLUTA | Rechtsanwalts GmbH
Rechtsberatung
Insolvenzverwaltung

ABSCHRIFT

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**IN 226/02 Insolvenzverfahren über das Vermögen der Phyoptics Opto
Elektronik GmbH, Münchener Str. 15, 82319 Starnberg**

Erklärung

Hiermit erteile ich mein Einverständnis zur Verwertung der Patente vorgenanntes
Insolvenzverfahren betreffend, bei denen ich als Arbeitnehmererfinder benannt bin.

Leban 18.9.03
Ort, Datum

Robert Bücher
Robert Bücher

HUBER-WILHELM · KARGE · HEILMEIER · ALTWEGER

RECHTSANWÄLTE · STEUERBERATER

ABSCHRIFT

per Telefax: 089 / 85 89 63 - 50

Pluta Rechtsanwalts-gesellschaft mbH
z.Hd. Dr. Martin Prager
Barthstraße 16

80339 München

Bitte bei jeder Zuschrift und Zahlung angeben!

AKTENZEICHEN 03/1378/60/sc
SEKRETARIAT Fr. Kuhr
DURCHWAHL 08161/53 02 61

03.11.2003

David Dickerson / Dr. Prager als Insolvenzverwalter über das
Vermögen der Physoptics Opto-Electronic GmbH

Sehr geehrter Herr Kollege Dr. Prager,

in obiger Sache nehmen wir Bezug auf unsere diversen persönlichen
und telefonischen Besprechungen, unser Schreiben vom 29.10.03 und
insbesondere unsere Telefonate vom 30. und 31.10.03.

Wir halten das Übereinkommen der Parteien fest wie folgt:

1. Rechtsanwalt Dr. Prager veräußert an Herrn David Dickerson
sämtliche der Physoptics Opto-Electronic GmbH oder Herrn Di-
ckerson zustehenden Rechte und Patentanmeldungen und/oder
Patente, bei denen die Physoptics Opto-Electronic GmbH als
Anmelderin bzw. Inhaberin eingetragen bzw. aufgetreten ist.
Rechtsanwalt Dr. Prager verpflichtet sich ferner zur Herausgabe
zu den vorbenannten Patentanmeldungen und/oder Patenten zu-
gehörigen Akten und Unterlagen, lagernd teils in der Anwalts-
kanzlei Pluta, Rechtsanwalts-gesellschaft mbH, teils in den vor-
maligen Mieträumen der Firma Physoptics Opto-Electronic
GmbH, Starnberg.

Herr David Dickerson verpflichtet sich hierfür ein Entgelt zu be-
zahlen in Höhe von € [REDACTED]

Dieser Betrag wird fällig Zug um Zug gegen Übergabe der Ak-
ten und Unterlagen.

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Postfach 1405, 85314 Freising

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Internet: http://www.Huber-Wilhelm.de

Schlichtungsstelle nach dem
Bayerischen Schlichtungsgesetz

L. HUBER-WILHELM +
Rechtsanwalt

GERD KARGE
Rechtsanwalt

C. HUBER-WILHELM
Rechtsanwalt /
Fachanwalt (für Arbeitsrecht)

JOSEF HEILMEIER
Rechtsanwalt

WERNER SCHÖFFMANN
Rechtsanwalt

CHRISTINE MAIER
Rechtsanwältin /
Fachanwältin für Familienrecht

BIRGIT AIGNER
Rechtsanwältin

ERNST ALTWEGER
Steuerberater

In Kooperation mit
AUDITJUR TAX
Steuerberatungs GmbH

BANKVERBINDUNGEN

Bankhaus L. Sperrer Freising
24307 (BLZ 700 310 00)
Swift-Code: BHLSD333

Sparkasse Freising
2279 (BLZ 700 510 03)
IBAN: DE11700510030000002279

HypoVereinsbank Freising
4065328 (BLZ 700 211 80)
IBAN: DE 44 7002 1180 000 0853 28

PGA München
93931-600 (BLZ 700 100 80)

2. Rechtsanwalt Dr. Prager sichert Herrn David Dickerson zu, dass seit seiner Bestellung als Insolvenzverwalter über das Vermögen der Firma Physoptics Opto-Electronic GmbH eine anderweitige Veräußerung, Schenkung, Verwertung, Rechtsteilung, Lizenzierung, Übertragung, Inhaberschaftseintragung o.ä. von ihm nicht veranlasst oder zu veranlassen gebilligt worden ist und seiner Kenntnis nach nicht stattgefunden hat.
3. Rechtsanwalt Dr. Prager verpflichtet sich, sämtliche für eine amtliche oder anderweitige Anerkennung der Übertragung der hiermit veräußerten Rechte notwendigen Erklärungen, Unterschriften, etc. zu leisten und/oder abzugeben. Hieraus Herrn Rechtsanwalt Dr. Prager entstehende Kosten für Aufwendungen werden von diesem getragen. Dies gilt nicht für Kosten, die mit der Umschreibung der Rechte auf Herrn David Dickerson zusammenhängen, d.h. Amtsgebühren und dgl. Diese treffen Herren David Dickerson.
4. Rechtsanwalt Dr. Prager sichert Herrn David Dickerson zu, dass die Arbeitnehmererfinder Heinrich Eberl und Robert Bücher mit einer Übertragung der Arbeitnehmererfindungen auf einen Dritten einverstanden waren und sind. Allfällige Vergütungsleistungen an die Arbeitnehmererfinder Heinrich Eberl und Robert Bücher aus der Insolvenzmasse bzw. dem Veräußerungserlös zu zahlen, verpflichtet sich Herr Rechtsanwalt Dr. Prager bis zur Höhe des Kaufpreises. Weitergehende Ansprüche der Arbeitnehmererfinder Heinrich Eberl und Robert Bücher übernimmt Herr David Dickerson und stellt Herrn Rechtsanwalt Dr. Prager insofern frei.
5. Herr David Dickerson verzichtet auf sämtliche Schadenersatzansprüche gegen Rechtsanwalt Dr. Prager, die aus seiner Arbeitnehmererfinderschaft oder seiner Stellung als freier Erfinder bezüglich der oben genannten Patentanmeldungen bzw. Patente erwachsen sein könnten.
6. Die Kosten der Auseinandersetzung und dieses Vergleiches werden gegeneinander aufgehoben.

Bei dieser Vereinbarung handelt es sich um einen Rohentwurf, der inhaltlich so zwischen Rechtsanwalt Dr. Prager und Rechtsanwalt Claus Huber-Wilhelm besprochen wurde, vom Wortlaut her allerdings noch abgestimmt werden muss und von Herrn David Dickerson gutgeheißen werden muss.

Zum Zeichen des Einverständnisses bitten wir dieses Schreiben gegengezeichnet an uns zurückzusenden.

Mit freundlichen kollegialen Grüßen

Claus Huber-Wilhelm
Rechtsanwalt

Pluta Rechtsanwaltsges.mbh
Dr. Martin Prager

PLUTA Rechtsanwalts GmbH Postfach 12 12 09 D-80035 München

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München, den 20. November 2003
Dr. Prager/me

IN 226/02 Insolvenzverfahren über das Vermögen der Phyoptics Opto Electro-
nic GmbH, Münchener Str. 15, 82319 Starnberg

Patente

DE 100 47 237.0
US 09/962,005
EP 01 122 781.6
PCT/EP00/09843
PCT/EP00/09840
PCT/EP00/09841
PCT/EP00/09842
DE 101 03 922.0
JP 2002-022,598
US 10/066,292
PCT/EP01/05886
DE 101 27 826.8
PCT/EP01/11633
PCT/EP01/11634
PCT/EP02/04030

*I hereby confirm that, as bankruptcy
trustee for the debtor, I have transferred
to you all rights in the above mentioned
patents of Physoptics Opto-Electronics
GmbH, Münchener Street 15 B, 82319
Starnberg*

Sehr geehrter Herr Dickerson,

hiermit bestätige ich, dass alle Rechte vorgenannte Patentanmeldungen betreffend
von Physoptics Opto-Elektronik GmbH, Münchener Str. 15B in 82319 Starnberg
durch mich als Insolvenzverwalter der Schuldnerin (Anlage 1) auf Sie übertragen
wurden.

Mit freundlichen Grüßen

Dr. Martin Prager
Rechtsanwalt
-Insolvenzverwalter-

PLUTA Rechtsanwalts-Gesellschaft mbH Sitz der Gesellschaft: Ulm, HRB 4456 Amtsgericht Ulm
Geschäftsführer: Michael Pluta, RA, vBp | Dr. Joachim Gebler, RA, vBp | Michael Schoor, RA, Stb
Fritz Zanker, RA, Stb | Dr. Stephan Thiemann, RA | Dr. Martin Prager, RA | Laura Riera, Adv.

To whom it may concern:

It is herewith confirmed that all rights to and deriving from the patent applications

DE 100 47 237.0

US 09/962,005

EP 01 122 781.6

PCT/EP00/09843

PCT/EP00/09840

PCT/EP00/09841

PCT/EP00/09842

DE 101 03 922.0

JP 2002-022,598

US 10/066,292

PCT/EP01/05886

DE 101 27 826.8

PCT/EP01/11633

PCT/EP01/11634

PCT/EP02/04030

have been legally transferred from

Physoptics Opto-Electronic GmbH
Münchner Strasse 15B
82319 Starnberg
Germany

to

David Dickerson
Wippenhauser Strasse 16
85354 Freising
Germany

1403

ASSIGNMENT

For valuable consideration the receipt of which is hereby acknowledged, I, Roland H. C. Eberl, residing at Perhamerstrasse 76, 80687 Munich, Germany, hereby assign to David Parker Dickerson, residing at Wippenhauser Strasse 16, 85354 Freising, Germany, and his successors and assigns (collectively hereinafter called "the Assignee"), the entire right, title and interest throughout the world in the inventions and improvements which are subject of International Application Number PCT/EP02/04030 filed on April 10, 2002 under the Patent Cooperation Treaty entitled "METHOD AND SYSTEM FOR PROVIDING INFORMATION ON THE EYE".

This Assignment includes said application, any application claiming priority from said application, any and all United States and foreign patents, utility models, and design registrations granted for any of said inventions, and the right to claim priority based on the filing date of said applications under the International Convention for the Protection of Industrial Property, the Patent Cooperation Treaty, the European Patent Convention, and all other treaties of like purposes. I authorize the Assignee to apply in all countries in my name or in its own name for patents, utility models, design registrations and like rights of exclusion, and for inventors' certificates for any inventions described in said application, and I agree for me and my respective heirs, legal representatives and assigns, without further compensation, to perform such lawful acts and to sign such further applications, assignments, preliminary statements and other lawful documents as the Assignee may reasonably request to effectuate fully this Assignment.

I covenant with said Assignee that no assignment, grant, mortgage, license or other agreement affecting the rights and property herein conveyed has been made to others by me and that full right to convey the same as herein expressed is possessed by me.

IN WITNESS WHEREOF, I hereto set my hand and seal at Munich,
this 13 day of April, 2005



Roland H. C. Eberl

Before me this 13 day of June, 2005, personally appeared Roland H. C. Eberl known to me to be the person whose name is subscribed to the foregoing Assignment, and acknowledged that he executed the same as his free act and deed for the purposes therein contained.

Notary Public

My Commission Expires:

25.8.2019

[Notary's Seal Here]





Notar
Dr. Peter Anton
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80333 München
Tel. (089) 290 14 90